

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

JOSEPH GERARDI,

Defendant.  
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VALERIE CAPRONI, United States District Judge:

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16-CR-776 (VEC)

ORDER


Defendant Joseph Gerardi has been convicted of wire fraud, conspiracy to commit wire fraud, and making false statements to federal officers. *See* Judgment, Dkt. 945. Mr. Gerardi has moved for bail pending appeal, pursuant to 18 U.S.C. § 3143(b). *See* Def.’s Ltr. (Dec. 4, 2018), Dkt. 941; Gov.’s Resp. Ltr. (Dec. 14, 2018), Dkt. 958; Def.’s Reply Ltr. (Dec. 21, 2018), Dkt. 968. The Court has previously indicated that the theory underlying Mr. Gerardi’s convictions for wire fraud and conspiracy to commit wire fraud presents a substantial question of law that warrants bail pending appeal, *see* Ciminelli Sentencing Tr. (Dec. 3, 2018), Dkt. 948, at 43–45, 47; the parties, therefore, have addressed only whether bail pending appeal is warranted for Mr. Gerardi’s false statements conviction.

Mr. Gerardi’s motion for bail pending appeal is GRANTED. If Mr. Gerardi’s and his co-Defendants’ convictions for wire fraud and conspiracy to commit wire fraud were to be reversed, there is a substantial question whether his conviction for false statements would require a new trial, due to the risk of prejudicial spillover from the fraud counts. Accordingly, bail pending appeal is appropriate. The Court does not, however, find that any of the other arguments that Mr. Gerardi made in support of his motion would have warranted bail pending appeal.

If any of Mr. Gerardi's convictions are affirmed on appeal, Mr. Gerardi must surrender to his designated facility within 60 days of the issuance of the appellate mandate. If no facility has been designated by that time, Mr. Gerardi must surrender to the U.S. Marshal for the Southern District of New York. *See* Judgment, Dkt. 945; Gerardi Sentencing Tr. (Dec. 6, 2018), Dkt. 956, at 33.

**SO ORDERED.**

**Dated: January 4, 2019**  
**New York, NY**

  
**VALERIE CAPRONI**  
**United States District Judge**